

Response: LETR Discussion Paper 02/2012 (Key Issues II: Developing the Detail)

Name of responding person: N/a.

Name of organisation (If responding on behalf of an organisation): **Young Legal Aid Lawyers (YLAL)**

Your named response will be published (but without contact details) on the LETR website unless you indicate to the contrary, below:

I wish my response to be published wholly anonymously

I DO NOT want my response to be published

If you are willing to be contacted by the research team with respect to any of your responses below, please provide the following contact details

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YLAL is a group of junior lawyers who are committed to practising in those areas of law, both criminal and civil, that have traditionally been publicly funded. YLAL members include students, paralegals, trainee solicitors, pupil barristers and qualified junior lawyers based throughout England and Wales. Currently, we have around 1,700 members. We do not have the resources to be able to respond to each of the questions in detail. Instead we have chosen to focus on those questions that we feel are of key importance to the training and development needs of junior professionals working in the legal aid sector.

Question 1: in the light of limited evidence received so far we would welcome further input as regards the preferred scope of QLD Foundation subjects, and/or views on alternative formulations of principles or outcomes for the QLD/GDL (We would be grateful if respondents who feel they have already addressed this issue in response to Discussion Paper 01/2012 simply refer us to their previous answer).

Question 2: Do you see merit in developing an approach to initial education and training akin to the Institute of Chartered Accountants of England and Wales (ICAEW)? What would you see as the risks and benefits of such a system?

Benefits:

This may be one way in which to open up the legal profession to people from lower socio-economic backgrounds (for instance those who could not afford undergraduate and postgraduate tuition fees and living costs). We note that in 2010, 19% of those qualified as an ACA were not University graduates.¹ This seems to be a comparatively high percentage and would tend to indicate a broader socio-economic demographic within the accountancy profession than within the legal profession.

Further the non-graduate routes to qualification as a chartered accountant offer opportunities for candidates to gain “on the job” experience at an earlier stage, and earn money while qualifying. This is beneficial in that it helps tackle the problem of education-related debt. It would also go some way to alleviating the problem, identified elsewhere, that the BPTC and LPC, do not sufficiently prepare graduates for practice. Though we would note that the same could be said of Work Based Learning (WBL); that is to say, adopting a scheme akin to the ICAEW would certainly not be the only way to remedy these problems.

Risks:

On the other hand this approach to education and training seems to involve numerous different routes to qualification. There is a risk that this could make education and training very difficult to regulate, with those who qualify through different routes being educated or trained to different standards.

Question 3: We would welcome views on whether or not the scope of the LPC core should be reduced, or, indeed, extended. What aspects of the core should be reduced/substituted/extended, and why?

Our response to the LETR dated 28 September 2012 confirmed that a majority of our members are in favour of some form of WBL replacing the LPC. However, in the alternative, our view is that a reduced core of the LPC (and, as a by-product, reduced fees and/or timetable) would be a positive change that would tackle three of the areas of most concern to young lawyers in the legal aid sector.

First, the majority of our members took the view that the LPC core content does not reflect legal aid practice. For example, the two core modules of Business Law in Practice (BLP) and Property Law take up a large part of the LPC course but are of little use to anyone going into legal aid work. This militates in favour of reducing the core content.

Second, reducing core content would allow the cost of the course to be reduced. The prohibitive cost of the LPC is of real concern to our members as is the corresponding impact on social mobility.

¹ [ICAEW briefing to David Willetts MP on fair access to the accountancy profession](#), 15.11.10, p.1, para 2.1

Many of our members struggle to pay these fees without the kind of financial support available to students pursuing careers in commercial and corporate practice or without financial support from wealthy parents or family members, which candidates from lower socio-economic backgrounds do not have. (See YLAL response, dated 28 September 2012, which outlined the results of a recent social mobility survey.)

Third, a reduction in the core subjects of the LPC (making, for example one or two of the three current core modules compulsory and leaving that choice to the student) could lead to a more flexible timetable for students to pursue work experience or paid legal work. Alternatively a reduction in core subjects would be compatible with WBL.

YLAL would encourage the LETR to make bold recommendations in respect of the LPC, to ensure that it is relevant and a viable option for junior lawyers entering all sectors of practice, including those entering areas of work that have been traditionally publicly funded.

Question 4: should greater emphasis be placed on the role and responsibilities of the employed barrister in the BPTC or any successor course? If so, what changes would you wish to see?

Question 5: do proposals to extend rights to conduct litigation and the extension of Public Access to new practitioners require any changes to the BPTC, further education or new practitioner programmes, particularly as regards (a) criminal procedure (b) civil procedure (c) client care, and (d) initial interviewing (conferencing) skills?

Question 6: we would welcome any additional view as to the viability and desirability of the kind of integration outlined here. What might the risks be, particularly in terms of the LSA regulatory objectives? What are the benefits?

Question 7: We would welcome additional evidence as regards the quality of education and training and any significant perceived knowledge or skills gaps in relation to qualification for these other regulated professions.

Question 8: As a matter of principle, and as a means of assuring a baseline standard for the regulated sector, should the qualification point for unsupervised practice of reserved activities be set, for at least some part of the terminal ('day one competence') qualification at not less than graduate-equivalence (QCF/HEQF level 6), or does this set the bar too high? (Note: 'qualification' for these purposes could include assessment of supervised practice). What are the risks/benefits of setting the standard lower? If a lower standard is appropriate, do you have a view what that should be (eg, level 3, 4, etc)?

Question 9: Do you consider that current standards for paralegal qualifications are fragmented and complex? If so, would you favour the development of a clearer framework and more coordinated standards of paralegal education?

We wish to make clear at the outset that as an organisation we do not have a fixed view on whether or not paralegal qualifications are desirable or undesirable. This is an issue on which many of our

members hold differing views.

That notwithstanding we agree that the current standards of paralegal qualifications are fragmented and complex. Our experience is that few entrants to the profession know about or fully understand the full spread of paralegal qualifications on offer. The risk inherent in this fragmented approach is that it is difficult to regulate to a uniform standard.

One of the key issues identified within the LETR in the context of this question is whether there are “sufficient checks across the range to ensure that appropriate levels of workplace supervision are in place for those in training”. We agree that this is an extremely important issue. Many of our members who work as paralegals have voiced concern over a lack of support, training, supervision and career development. These are themes which we have raised in our previous LETR response,² and within our 2008 report [“Paralegals in Legal Aid: a growing & unhealthy dependency”](#); on the increase in “paralegalisation” in legal aid, highlighting our concerns about poor supervision and working conditions. We would favour a clearer framework and coordinated standards to address these issues.

Question 10: If voluntary co-ordination (eg around NOS) is not achieved, would you favour bringing individual paralegal training fully within legal services regulation, or would you consider entity regulation of paralegals employed in regulated entities to be sufficient?

Question 11: Regarding ethics and values in the law curriculum, (assuming the Joint Announcement is retained) would stakeholders wish to see

(a) the status quo retained;

(b) a statement in the Joint Announcement of the need to develop knowledge and understanding of the relationship between morality and law and the values underpinning the legal system

(c) a statement in the Joint Announcement of the need to develop knowledge and understanding of the relationship between morality and law, the values underpinning the legal system, and the role of lawyers in relation to those values

(d) the addition of legal ethics as a specific Foundation of Legal Knowledge.

In terms of priority would stakeholders consider this a higher or lower priority than other additions/substitutions (eg the law of organisations or commercial law)?

Would you consider that a need to address in education and training the underlying values of law should extend to all authorised persons under the LSA?

Question 12: Do you agree the need for an overarching public interest test in assessing the aims and outcomes of LET? If so do you have any view as to the form it should take?

Yes we agree that an overarching public interest test should be used in assessing the aims and outcomes of LET. Our view is that legal aid work has an inherent social value and that an overarching public interest test would therefore ensure that legal education and training is weighted less to the more profitable areas of law and more to ensuring that talented candidates train and qualify as legal aid lawyers.

² YLAL response to the LETR, September 2012, pp. 13-16

Question 13: we would welcome any observations you might wish to make as regards our summary/evaluation of the key issues (as laid out in paras. 127-31 of the Paper)

YLAL's view is that Work Based Learning would assist in resolving a number of the issues laid out in paras 127-131. WBL programmes could provide the necessary knowledge and practical experience for students with more time spent in practice over studying. WBL allows students to enter the work place whilst learning, thereby reducing the need for unpaid work experience and countering the cost of the vocational courses. We consider this idea to be of particular importance for would be legal aid lawyers who cannot afford to bear the brunt of the costs of legal education knowing that they will receive comparatively low salaries (relative to counterparts in corporate and commercial areas of the legal sector), meaning that they will struggle to pay back the debt incurred to pay the fees.

The Solicitors Regulation Authority's own WBL report found that WBL produces a well-rounded individual, with learning outcomes as an appropriate training method and portfolios, which exhibit how ready a candidate was to be a solicitor. Candidates felt that WBL would reduce barriers to entry. We agree. However alongside this; it is YLAL's view that in general, barriers to entry need to be addressed earlier in the education process.

Question 14: Do you agree with the assessment of the gaps (now or arising in the foreseeable future) presented in this paper in respect of the part(s) of the sector with which you are familiar? If not, please indicate briefly the basis of your disagreement. [If you feel that you have already responded adequately to this question in your response to Discussion Paper 01/2012, please feel free simply to cross-refer]

Please see our previous responses to the LETR.

Question 15: do you consider an outcomes approach to be an appropriate basis for assessing individual competence across the regulated legal services sector? Please indicate reasons for your answer.

Question 16: in terms of the underlying academic and/or practical knowledge required of service providers in your part of the sector, would you expect to see some further specification of (eg) key topics or principles to be covered, or model curricula for each stage of training? If so do you have a view as to how they should be prescribed?

Question 17: Would you consider it to be in the public interest to separate standards from qualifications? What particular risks and/or benefits would you anticipate emerging from a separation of standards and qualifications as here described?

Question 18: Decisions as to stage, progression and exemption depend upon the range and level of outcomes prescribed for becoming an authorised person. A critical question in respect of existing systems of authorisation is whether the range of training outcomes prescribed is adequate or over-extensive. We would welcome respondents' views on this in respect of any of the regulated occupations.

Thank you very much for your contribution. Please now e-mail your responses to letrbox@letr.org.uk, putting 'Developing the Detail response' in the subject line.